

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 JAMES M. LEDAKIS

Supervising Deputy Attorney General

3 ERIN M. SUNSERI, State Bar No. 207031

Deputy Attorney General

4 110 West "A" Street, Suite 1100

San Diego, CA 92101

5 P.O. Box 85266

6 San Diego, CA 92186-5266

Telephone: (619) 645-2071

7 Facsimile: (619) 645-2061

E-mail: Erin.Sunseri@doj.ca.gov

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 2009-61

15 JOHN B. SCUDDER

39750 Intrepid Road

16 Temecula, CA 92592

17 Registered Nursing No. RN #484066

**A C C U S A T I O N**

18 Respondent.

19 Complainant alleges:

PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about August 31, 1992, the Board of Registered Nursing issued  
24 Registered Nursing License Number RN #484066 to John B. Scudder (Respondent). The  
25 Registered Nursing License expired on April 30, 2008, and has not been renewed.

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4. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions...

...

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal. App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

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11. In the plea agreement of September 13, 2006, Respondent admitted that he committed a lewd act upon a child with the intent to appeal to the passions or arouse the victim or himself, and there was substantial sexual conduct pursuant to Penal Code § 1203.066(a)(8).

12. On November 3, 2006, Respondent was committed to the custody of the Department of Corrections to be imprisoned for six (6) years. Respondent was ordered to have no contact with the victims. In addition, he was fined \$2,400.00, ordered to pay restitution to the victim in the amount of \$6,528.00, ordered to register under the Sex Offender Registration Act, ordered to undergo HIV testing and DNA sampling, and ordered not to possess firearms or ammunition.

## PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing Number RN #484066, issued to John B. Scudder.

2. Ordering John B. Scudder to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/23/08

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant